IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 15091 of 2004

Between:

M.Yoga Narasimham S/o. M.v.M. Gopalacharyulu
O/O Superintending Engineer, Operation A.P.S.P.D.C.L. Vijayawada.

..... PETITIONER

AND

1 Southern Power Distribution Company of A.P.Limited rep. by its Chairman and Managing Director, Tirupathi.
2 Southern Power Distribution Company of A.P.Limited rep. by its Chief General Manager
(Expr.) and Enquiry Officer, A.P.S.P.D.C.L. Tirupathi.
3 Southern Power Distribution Company of A.P.Limited rep. by its Superintending Engineer, Operation, 4th Lane, Brodipet, Guntur.
4 Southern Power Distribution Company of A.P.Limited rep. by its Chief General Manager (HRD), APSPDCL, Tirupathi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ in the nature of mandamus or any other appropriate, writ order or directions by declaring the action of the respondents in keeping the petitioner under suspension from 8.8.2001, as illegal, arbitrary and unconstitutional being violative of Articles, 14,16 and 21 of the Constitution of India and consequently direct the respondents to reinstate the petitioner into service, by quashing the Charge Sheet bearing Memo No.CGM/Expr/TPT/Confl/D.No.1451/2003 dated.2.8.2003 of the 2nd respondent, with all consequential benefits.

Counsel for the Petitioner:MR.B.A.PRAKASH REDDY

Counsel for the Respondents: MR.S.RAVINDRANATH

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 15091 of 2004

O R D E R:

The present writ petition is filed to issue a writ of Mandamus declaring the action of the respondents in keeping the petitioner under suspension from 8.8.2001 as illegal and arbitrary with a consequential direction to the respondents to reinstate the petitioner into service by quashing the charge sheet bearing Memo No.CGM/Expr/TTPT/Confl/D.No.1451 dated 2.8.2003 of the 2nd respondent.

The brief averments that are necessary for disposal of the present writ petition may be stated as follows:

One Visweswara Reddy appears to have made a complaint to the 3rd respondent on 7.6.2001 requesting him to enquire into the misappropriation of lakhs of rupees in D4 & D6 sections of Guntur Town. Thereafter, the 3rd respondent instructed the petitioner to enquire into the matter and the petitioner visited the office of A.A.O/E.R.O., Guntur and found discrepancies of the amounts of nearly Rs.62.00 lakhs. Since the matter is serious one, the persons who are involved in the misappropriation of the amount made an attempt threatening the petitioner and offering some amounts to the petitioner, but the petitioner rejected the same. It is further stated that one Srinivasa Rao, who is the main person involved in the misappropriation of amounts appears to have deposited Rs.85,000/- in the personal Housing Board Account of the petitioner on 12.6.2001 and on coming to know about the same the petitioner addressed a letter to the bank requesting the bank not to

credit the amount as the amount has not been deposited by him. Thereafter, the authorities of the Housing Board deleted the amounts from the loan account of the petitioner. On that baseless allegation a false case was foisted against the petitioner and the 4th respondent issued the impugned proceedings dated 11.8.2001 placing the petitioner under suspension w.e.f. 8.8.2001. Aggrieved by the same, the writ petitioner approached this court by filing a writ petition, which was dismissed on technical grounds. Though the incident is alleged to have taken place, no charge sheet was served for about 2 years. After receipt of the charge sheet, the petitioner submitted a representation dated 16.8.2003 and requested the 2nd respondent to furnish certain documents. There upon the 2nd respondent permitted the petitioner to peruse the relevant records in the office of the Senior Accounts Officer, Guntur and requested the Senior Accounts Officer to submit the documents. But, those documents were not supplied. The respondents have clearly violated the procedure in conducting the departmental enquiry and therefore the present petition is filed.

The 3rd respondent filed counter affidavit stating that the petitioner is thwarting the efforts of the respondent in holding enquiry on grave charges and the allegations are that the petitioner in collusion with other staff of private accounting agency withdrew Rs.80.98 lakhs of public money and that after collecting evidence a charge sheet was given and as the petitioner wanted 24 documents, all the documents except six were given and the remaining documents are being given through his counsel except one document which is not available. It is further stated that the chronology of events would establish that the petitioner is trying to buy time and stall the domestic enquiry at any cost. Several contentions were raised by the respondents in the counter affidavit which indicate about the factual aspects. Therefore, the other allegations have not been reproduced in this order since it is the duty of the enquiry officer to conduct enquiry with respect to the factual aspects of the matter.

Two contentions have been raised by the learned counsel for the petitioner Sri B.A. Prakash Reddy. One is that there was abnormal delay in issuing charge sheet and thereafter in conducting enquiry. The second ground is that certain documents which are required for proper and effective defence of the petitioner have not been supplied and therefore it will cause prejudice to the case of the petitioner.

On the other hand, learned counsel for the respondents Sri S. Ravindranath contended that the delay in issuing the charge sheet is due to collection of evidence from various sections since there was a large amount of misappropriation among several persons and therefore on that ground the charge sheet cannot be quashed and asfar as the documents are concerned, except six documents all the documents were furnished long back and one document was not furnished, which is not available. Therefore, he prays to dismiss the writ petition.

The necessity to conduct a disciplinary enquiry as expeditiously as possible before the witnesses who are to depose regarding the facts forget the same and before the documents through which the facts are to be brought home disappear cannot be overemphasized. There cannot be any dispute that delay in the conduct of enquiry will certainly be unjust to the employee apart from mental strain to which he will be subjected, it will entail forfeiture of legitimate right of service available to him but for the proceedings and even result in infringement of the salutary principles of equality of opportunity. The petitioner was placed under suspension w.e.f. 8.8.2001 vide proceedings of the 4th respondent. The charge sheet was served on the charged officer on 2.8.2003. There was nearly two years delay in serving the charge sheet. The reason for the delay as alleged by the Department is that the petitioner in collusion with the other staff of private accounting agencies withdrew an amount of Rs.80.98 lakhs of public money and therefore the Department has taken time in collecting the documents and other evidence relevant in conducting departmental enquiry. Since the allegation is with regard

to misappropriation of public money of Rs.80.98 lakhs, naturally it requires some considerable time in collecting the material and other evidence. Further, when the petitioner was placed under suspension, he approached this court by filing a writ petition. Though it is stated by the writ petitioner that the said writ petition was dismissed on technical grounds, it is not known whether any stay was granted while admitting the writ petition. The number of the writ petition has not been stated by the petitioner. Thereafter, the petitioner filed an appeal to the respondents. As the same was not disposed of, the petitioner filed another writ petition in W.P. 11312 OF 2002 before this court. The said writ petition was disposed of on 26.6.2002 directing the respondents to dispose of the appeal of the petitioner. But the appeal of the petitioner was rejected by the appellate authority on 28.8.2002. Again the petitioner filed another writ petition in W.P. 7904 of 2004 to furnish the documents sought for in his application dated 24.10.2003. That writ petition was disposed of directing the respondents to furnish the documents within 10 days. Thereafter, there was some delay in furnishing those documents as directed by this court. But, in any view of the matter, the documents were furnished to the petitioner except one document which is not available with the respondents.

So, from the aforesaid facts it appears that the petitioner was pursuing his remedies in the High Court and also before the appellate authority. In such view of the matter, the delay if any in issuing the charge sheet cannot be solely attributed to the Department. The delay in issuing the charge sheet cannot be shown to be wanton or willful by the respondents with a view to take vengeance or victimize the petitioner. No mala fides are attributed against the respondents in issuing the charge sheet after lapse of two years. Therefore, on that ground the charge sheet cannot be quashed.

With regard to the second contention of non-furnishing of the documents, it is stated in the counter by the respondents that on 24.10.2003 the petitioner wanted 24 documents to be supplied

without making out a case of relevant documents but however all the documents six were given on 9.6.2004 and three documents were given to the counsel and two documents were given on 7.9.2004 and another document was given on 17.8.2004 whereas one document was not given since that document was not available with the Department. No doubt, there is some delay on the part of the Department in furnishing the documents, but that delay in furnishing the documents cannot be shown to be with any malice or ill-will against the delinquent. As of now, since all the documents have been furnished to the petitioner, it is for the petitioner to furnish explanation to the charge sheet. Since it is a case of alleged misappropriation to a tune of Rs.80.98 lakhs of public money, the question of quashing the charge sheet dated 2.8.2003 issued by the 2nd respondent does not arise. However, considering the facts and circumstances of the case a direction can be given to the respondents to conduct the enquiry within a time-bound period. Since the departmental enquiry is pending for the last three years for whatever reason and public money of Rs.80.98 lakhs is involved, it is desirable to direct the respondents to complete the enquiry within six months from the date of giving of explanation by the petitioner. It is made clear that the petitioner shall cooperate with the enquiry officer and he shall not take any unnecessary adjournments. It is also made clear that the enquiry officer shall, if possible, fix up the schedule of the case and complete the enquiry and submit a report to the disciplinary authority. Thereafter, the disciplinary authority shall take appropriate decision basing on the enquiry report.

With the aforesaid directions, the writ petition is disposed of.

K.C. Bhanu, J.

Date: --12—2004.

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chairman and Managing Director, Southern Power Distribution Company of A.P.Limited, Tirupathi.
2 The Chief General Manager, (Expr.) & Enquiry Officer, Southern Power Distribution Company of A.P.Limited A.P.S.P.D.C.L. Tirupathi.
3 The Superintending Engineer, Operation, Southern Power Distribution Company of A.P.Limited, 4th Lane, Brodipet, Guntur.
4 The Chief General Manager (HRD), Southern Power Distribution Company of A.P.Limited APSPDCL, Tirupathi.

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